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| APPLICATION NO.  | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO.     | CONFIRMATION NO. |
|--|-------------|----------------------|-------------------------|------------------|
| 10/717,110   | 11/19/2003  | Richard L. Bontrager | RSVP-03008US0           | 7308             |
| 7590   | 11/18/2005  |                      | EXAMINER                |                  |
| Martin C. Fliesler<br>FLIESLER DUBB MEYER & LOVEJOY LLP<br>Fourth Floor<br>Four Embarcadero Center<br>San Francisco, CA 94111-4156 |             |                      | CHAN, KO HUNG           |                  |
|  |             |                      | ART UNIT                | PAPER NUMBER     |
|  |             |                      | 3632                    |                  |
|  |             |                      | DATE MAILED: 11/18/2005 |                  |

Please find below and/or attached an Office communication concerning this application or proceeding.

|                              |                        |                     |
|------------------------------|------------------------|---------------------|
| <b>Office Action Summary</b> | <b>Application No.</b> | <b>Applicant(s)</b> |
|                              | 10/717,110             | BONTRAGER ET AL.    |
|                              | <b>Examiner</b>        | <b>Art Unit</b>     |
|                              | Korie H. Chan          | 3632                |

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

#### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) Responsive to communication(s) filed on 24 August 2005.
- 2a) This action is **FINAL**.      2b) This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) Claim(s) 3-5, 15-19, 21, 22 and 24-39 is/are pending in the application.
- 4a) Of the above claim(s) 15-19, 22 and 25-28 is/are withdrawn from consideration.
- 5) Claim(s) 3-5, 21, 24 is/are allowed.
- 6) Claim(s) 29-39 is/are rejected.
- 7) Claim(s) \_\_\_\_\_ is/are objected to.
- 8) Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on \_\_\_\_\_ is/are: a) accepted or b) objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) All    b) Some \* c) None of:
  1. Certified copies of the priority documents have been received.
  2. Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

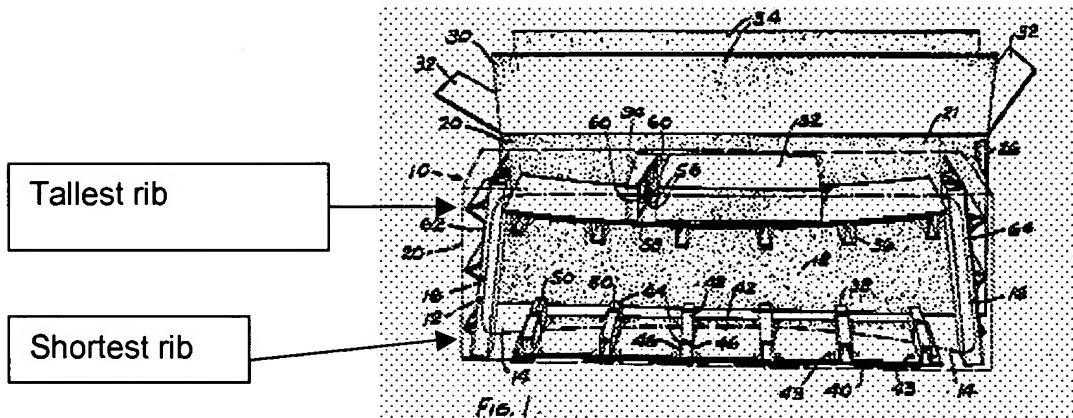
- 1) Notice of References Cited (PTO-892)
- 2) Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_.
- 4) Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_.
- 5) Notice of Informal Patent Application (PTO-152)
- 6) Other: \_\_\_\_\_.

**DETAILED ACTION**

Claims 29-39 stand rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Patent number 5,799,796 to Azelton et al. in view of U.S. Patent number 2,769,534 to Lidgard. Azelton et al.'796 discloses a spring system end cap (figures 1A,1B) comprising a base (surface below 4 adapted to rest on a surface), a platform portion (4) generally arranged in a first plane, a sidewall structure (6,8) that suspends the platform above the base and including an inner wall (10) connected with the platform portion and surrounding the periphery of the platform portion, and an outer wall (12) forming an acute angle relative to a second plane (there are infinite such second planes that would suffice) and surrounding the periphery of the inner wall and extending from the base, at least one spring system (14) connected between the inner wall and the outer wall wherein the spring system includes at least one bellows (20); wherein the sidewall structure includes a plurality of the spring systems formed end to end, wherein each spring system is connected with the outer wall along a ridge forming a plurality of arcs (see figure 1B) connected end to end along the length of the sidewall structure.

However, Azelton et al. '796 fails to specifically teach at least one rib protruding from the outer wall. Nevertheless, Lidgard'534 divulges an end cap for supporting an article (figures 1.2, see above), wherein the end cap includes ribs (above) protruding from an outer wall. It would have been obvious to one of ordinary skill in the art at the time the invention was made to have included ribs on the outer wall of Azelton et al.'796 as in Lidgard '534 so as to allow the end caps along with an object being held by the

end caps to more closely conform to the inside of a carton or box which would provide for a more stable assembly. Further, it would have been obvious to have provided ribs on each of the spring systems so as to provide for an even more stable assembly, in addition to the fact that doing so is simply seen as a duplication of parts. Further, a contact surface of rib (above. a "surface" is defined in Merriam Webster's Collegiate Dictionary, 10th Edition as "the exterior...of an object or body", so clearly the line at the tip of the rib is a contact surface) is formed generally parallel to the second plane, wherein the spring system is operable connected with the rib; wherein when the at least one rib/at least one rib is impacted the rib/at least one rib could inherently engage the spring system/at least one spring system (if engaged with enough force); wherein the rib is approximately centered along the spring system (see middle rib of Lidgard '534). Further, regarding claims 35,36, 38 and 39, Azelton et al. '796 in view of Lidgard'534 fail to specifically teach the contact surface to have an approximately trapezoidal/rectangular shape. It would have been obvious to one of ordinary skill in the art at the time the invention was made to have constructed the contact surface to be any number of various shapes including trapezoidal/rectangular, so long as the rib still provides the function of allowing an object with end caps to conform to the inside of a box in addition to satisfying the preferences of operators/manufacturers.



Regarding amended claim 29, "a rib projecting outward from said outer wall such that when the unitary spring system end cap is disposed within the carton, at least a portion of the rib projects a distance that varies with the gap so that said portion is generally in contact with the second surface of the carton", Lidgard as illustrated above shows the rib (the shortest one) projecting a distance that varies or different with the gap heights (such as the gap height defined by the tallest rib) and that the shortest rib has a portion in contact with the carton.

## **Allowable Subject Matter**

Claims 3-5, 21, and 24 are allowed.

This application contains claims 15-19, 22, 25-28 drawn to an invention nonelected with traverse in the response filed July 2, 2004. A complete reply to the final rejection must include cancellation of nonelected claims or other appropriate action (37 CFR 1.144) See MPEP § 821.01.

Applicant is reminded that upon the cancellation of claims to a non-elected invention, the inventorship must be amended in compliance with 37 CFR 1.48(b) if one or more of the currently named inventors is no longer an inventor of at least one claim

remaining in the application. Any amendment of inventorship must be accompanied by a request under 37 CFR 1.48(b) and by the fee required under 37 CFR 1.17(i).

***Response to Arguments***

Applicant's arguments filed 8/24/2005 have been fully considered but they are not persuasive. As discussed above, applicant's amended claim 29 does not overcome the previously presented rejection. Lidgard does show the rib (the shortest one) projecting a distance that varies or different with the gap height (such as the gap height defined by the tallest rib) and that the shortest rib has a portion in contact with the carton.

**THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Korie H. Chan whose telephone number is 571-272-6816. The examiner can normally be reached on Monday - Thursday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Robert Olszewski can be reached on 571-272-6788. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Korie H. Chan  
Primary Examiner  
Art Unit 3632

khc  
November 10, 2005